

# Impact Fees - Common Questions

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## What is an Impact Fee?

An impact fee is a fee, paid at time of building permit, that can only be used to build new public improvements. On January 13, 2003 the City Council approved five separate impact fees: 1) arterial streets, 2) water system, 3) water distribution, 4) wastewater and 5) neighborhood parks and trail fee. Each fee will be deposited into a separate account. These funds could then be used only for new construction. For example, the water system impact fees could only be used for new water improvements, such as reservoirs, pumping stations and water treatment. (Impact Fee Ordinance #18113 adopted January 13, 2003.)

## When Will Impact Fees Begin? (Updated April 2, 2003)

Impact fees will be collected ***on building permit applications that are made on or after Monday, June 2, 2003.*** Any complete building permit application prior to June 2<sup>nd</sup>, which does not expire prior to the issuance of a building permit, will not be required to pay impact fees. An application for a building permit shall not be deemed to be complete until the application, together with all the attachments, information or other accompanying documents are properly filed with the City.

A complete application includes information such as, but not limited to, a complete application form, building construction drawings and site plan. A complete application must also include a legal description of the project and applicable building permit deposit fees. If you have any questions regarding permitting rules, please contact Chuck Zimmerman of Building and Safety at 441-6452. (Impact Fee Ordinance, Section 27.82.050 (a) "Imposition of Impact Fees")

## Will the application for a Limited Permit Prior to June 2<sup>nd</sup> Be Exempt? (Updated April 2, 2003)

No. A "limited permit" application, typically for limited construction such as footing and foundations, is not acceptable as a full building permit application to be exempt from impact fees.

## What are the Expiration Dates on Building Permits?

Once a **Residential** building permit is ***issued*** it expires in 120 days if work has not commenced; the permit expires 2 years after being issued or if work has been abandoned for 180 days.

Once a **Commercial** building permit is ***issued*** it expires in 180 days if work has not commenced; the permit expires if work has been abandoned for 180 days.

There are provisions to extend any of these deadlines or expirations- but only when asked in writing and for justifiable cause. Extensions are generally to be granted one additional time period. As a point of information, residential and commercial ***applications*** for a permit expire 180 days after the date of filing if the permit has not been issued. This also applies to approved permits which have not had building permit fees paid and permits picked up from Building and Safety. (Source: Building and Safety Dept.)

## Are the Impact Fees Being Collected Outside the City Limits?

No. The fees can only be collected on construction inside the city limits.

## How Much Do Impact Fees Cost?

# Impact Fees - Common Questions

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Please see the adopted fee schedule. The fees are being phased in over many years. The amount of the fee increases each year from January 1<sup>st</sup> 2004 to January 1<sup>st</sup>, 2007. For a typical single family home, the fees start at a total of \$2,500 rising to \$4,500 in 2007. This does not include any increases due to inflation.

## **Will the Fee be Collected City Wide?**

Yes. However, the arterial street fee and neighborhood park/trail fee have exclusion areas. (See maps) In Downtown/Antelope Valley Redevelopment exclusion areas, impact fees for arterial streets will not be collected. This also means that arterial street impact fees may not be spent on any improvements within this area. The City determined that this area should be excluded from the arterial street impact fee in order to encourage redevelopment in this area. (Section 27.82.070 (a) (4))

The neighborhood park/trail exclusion area is a large area covering 50 square miles. In this area, the park/trail impact fees will not be collected. Again, this means park/trail impact fees may not be spent on any improvements within this area. This exclusion area was adopted because neighborhood parks and trails are already substantially developed within it. (Section 27.82.070 (a) (5))

## **What are Impact Fee Benefit Areas?**

For **arterial streets**, **water distribution** and the **park/trail** fees the city has been divided into seven **benefit areas**. Each benefit area would have a separate account and fees collected in the benefit area could only be used for new construction in that area. (Section 27.82.070 (a) "Creation of Benefit Districts")

The wastewater fee and water system fees are collected city wide and do not have specific benefit areas because these improvements can not be easily divided into seven benefit areas. For instance, the wastewater system has only two wastewater treatment plants. Thus, wastewater collected in one area may be treated in another area. The same is true of the water system. The City's water only treatment plant is located outside of Lincoln in Ashland. Reservoirs to serve one area may also be located in a separate area. For these reasons these two fees will be collected city wide.

## **Can you Explain the "Category Exemptions" for Previously Approved Development?**

The City Council adopted the grandfathering or "category exemption" from impact fees for all developments with written agreements or approvals that required the developer to contribute toward eligible impact fee improvements. To be eligible, the development would have contributed to items such as:

- 16 inch or larger water mains, water pump stations or reservoirs
- 10 inch or larger trunk wastewater mains
- through lanes in the arterial streets
- turn lanes at the intersection of two arterial streets.

Property within agreements or approvals completed prior to June 1, 2002 *that required the completion of an eligible impact fee improvement*, will be exempt from impact fees in each category that they contributed to improvements.

Improvements, such as adding a turn lane(s) into a development project would not be eligible for the exemption from arterial street impact fees. Contributions to construction of adjacent 12 inch water mains,

# Impact Fees - Common Questions

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collector or local road improvements are also not of the type to be funded with impact fees and thus are not eligible for the exemption from the water distribution and arterial street impact fees, respectively.

## **How Long Before the Fees Must Be Spent on Improvements?**

Impact fees would have to be spent within an 8 year time period. The longer period is necessary, because it may take several years to accumulate enough funds within a benefit area to make an improvement. (Section 27.82.080 (a))

Impact fees alone will not fund all the improvements. The majority of funds for improvements will continue to come from other sources, such as wheel taxes or utility rates.

## **Will Impact Fees be Collected on Residential Remodeling or Additions?**

**No.** The impact fee is only for new construction -- except if the remodeling adds dwelling units to an existing residence. For example, there is not an impact fee to add a bathroom, finish a basement or add a sunroom. There is an impact fee to add dwelling units, such as converting a single family home into four units. The fee is based on the number of additional units.

For new houses that are replacing a previous home that was demolished, there is no fee. However, the previous home would have to have been demolished within the past 15 years. If the lot has been vacant for over 15 years, then an impact fee will be collected. (Section 27.82.060 (a) (1) and (4))

## **Will Impact Fees be Collected on Commercial Remodeling?**

**No**, unless there is a change in use to a more intensive land use. For example, a warehouse that is being converted into an office will be required to pay the arterial street impact fee for the difference between the fee for a warehouse and an office. If the new use is less intensive than the previous use, impact fees will not be refunded. (Section 27.82.060 (a) (4))

## **Will Impact Fees be Collected on Commercial Additions?**

Yes. For businesses, it would apply to any additions and new buildings, with a reduction in the fee for the floor area of a previous business being replaced or expanded. (Section 27.82.060 (a) (4))

## **Is There a Wastewater or Water Impact Fee if the Size of the Current Water Meter Doesn't Change?**

No. Impact fees are only charged if there is an increase in the size of the water meter.

## **Why Are We Using Impact Fees, Why Couldn't We Stay with the Previous System?**

Impact fees are part of an overall approach to improve how the community finances improvements. If we stayed with the previous system, we would not have adequate resources to keep up with maintenance needs and to provide infrastructure to serve new development. We would also continue to negotiate improvements on a case by case basis, which does not provide predictable costs and is viewed by some as inequitable. Impact fees, coupled with other parts of an overall infrastructure strategy, will:

- ***Provide Greater Equity & Predictability:*** The past method of negotiating infrastructure

# Impact Fees - Common Questions

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improvements was viewed as inequitable and inconsistent. Negotiating private contributions for needed public improvements on a case by case basis was viewed as leading to inequities, and a property owner cannot determine in advance the full costs of development. Impact fees are a more predictable and equitable system.

- ***Provide More Resources for Maintenance and New Improvements:*** The City needs greater financial resources in order to address the capital costs of providing water, wastewater, roads, parks, and trails improvements for new growth areas and to maintain an increasing amount of improvements within existing neighborhoods. The community, through the Comprehensive Plan, has adopted plans to add over 40 square miles to the city, which will require significant infrastructure investment. As the community grows, there are additional utilities, roads, and improvements to build while also maintaining an aging infrastructure to serve existing neighborhoods. A significant funding shortage is anticipated, if we continued our current practice of paying for improvements, without requiring that development that creates and benefits from improvements pay their proportionate share of the costs.

## What is Meant by Arterial Street Improvements?

Arterial streets are the primary streets in Lincoln for through traffic. Examples include 84<sup>th</sup> Street, 27<sup>th</sup> Street, Pine Lake Road and Superior Street. Eventually, at final build-out in new growth areas, an arterial street would include 4 through lanes (12 feet wide each), dual left turn lanes, right hand turn lanes, traffic signals at selected intersections and sidewalks on both sides. Impact fees will not fund turn lanes into a private development, even if they are built as part of an arterial street project. Turn lanes into a development are still the responsibility of that development. Arterial street impact fees cannot be used for local or collector streets, such as Beaver Creek Lane or West South Street.

## How is the Arterial Street Impact Fee Calculated?

The fee varies based on the number of automobile trips that a use generates. Thus, a new 10,000 square foot retail or office building would pay a significantly higher fee than a single family house.

## Can Impact Fees be Used for Street Maintenance?

No. Impact fees can only be used for arterial street improvements; they can not be used for maintenance. For example, funds can be used to widen a street from two to four lanes, pave a gravel road with two lanes or to add traffic signals that provide access to multiple properties.

## What Type of Utility Improvements are Covered by Impact Fees?

The type of water and wastewater improvements being funded are the larger system improvements necessary to provide services for an expanding city. The **Wastewater Impact Fee** will be used for items such as improvements to the two wastewater treatment plants or sanitary sewer trunk lines. The **Water System Impact Fee** will be used for items such as water treatment plant, reservoirs, or water pumping stations. The **Water Distribution Impact Fee** will be used for larger water distribution mains.

## How are the Water and Wastewater Impact Fees Calculated?

The amount of the fees would depend on the size of the water meter. The greater the impact on the water and wastewater system, the larger the fee. Thus larger water users who require larger meters

# Impact Fees - Common Questions

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would pay more. Increases in meter size needed due to a fire sprinkler system would not increase the fee. The fee is based on the water meter capacity needed for typical daily use.

An increase in the water meter size due to fire code requirements would not increase the size of the water impact fee. For example, if the regular usage of a business only required a 2 inch water meter, but the sprinkler system required by the fire code required an 8 inch meter, then the business only pays the impact fee based on a 2 inch meter. The impact fee is based on the impact of the typical daily use, not special circumstances such as a fire. (Section 27.82.060 (b) (2))

If the water meter was increased in size or was to serve a lawn irrigation system, then a fee is still collected. (Section 27.82.060 (b) (3))

## **What Is Being Done for Low Income and Moderate Income Owner Occupied Housing?**

The City is phasing the impact fee in over several years in order to reduce impact fees from the total capital cost recovery of \$9,000 to an amount substantially lower. This will reduce the impact on low income housing as well. However, even one time impact fees of several thousand dollars could make it more difficult for a low or moderate income person trying to afford a newly constructed house.

Thus, the impact fee ordinance exempts any new **low income** owner occupied dwelling unit from impact fees entirely. Low income is defined as having a household income that is 60% or less of the area median gross income, adjusted for household size. (Section 27.82.060 (a) (6) (i)) For example, to qualify as low income, for a family of four, the household income would be \$37,560 or less.

Fees are reduced by half for **moderate income** owner occupied housing. Moderate income is defined where the household income is more than 60% but less than 80% of the area median gross income, adjusted for household size. (Section 27.82.060 (a) (6) (ii)) For example, to qualify as moderate income, for a family of four, the household income would be between \$37,560 and \$50,100.

A table showing the low and moderate income limits by household size is available at the impact fee website (the website address is shown on the last page of this document.)

## **What About Low Income and Moderate Income Rental Housing?**

Impact fees are reduced similarly for rental housing, but only when the rental housing is built outside of low and moderate income areas. Low and moderate income areas already have a significant amount of rental housing. A map showing the low and moderate income areas is available at the impact fee website. City policies are aimed at encouraging low and moderate income rental housing be to be available throughout the City. Thus, impact fees are only reduced for rental housing outside of low and moderate income areas. (Section 27.82.060 (a) (7)) Low and moderate income rental housing is defined as a tenant-occupied dwelling unit which is rent restricted under local, state or federal regulations, “which restriction through means of a land use restriction agreement or similar legal document runs with the property for a period of at least fifteen years.” (Section 27.82.040 “Definitions”)

## **Will the City be Requiring a lot of Paperwork to Verify Income?**

No. The City will require that the rental and owner occupied units be constructed under local, state or federal regulations which have already verified that the household income qualifies. A copy of the

# Impact Fees - Common Questions

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income verification from another agency will be suitable. As part of the impact fee process the City is not attempting to duplicate previous verification efforts.

## **What if at Time the Building Permit is Issued There Isn't a Low or Moderate Income Buyer Yet or Their Paperwork is Not Yet Complete?**

The impact fee ordinance provides for the refund of impact fees if the claim for fee reduction is made within "30 days following the date the housing is first occupied." (Section 27.82.060 (c)) Thus, if the builder pays the fee the appropriate amount would be refunded if a claim is filed within 30 days of occupancy by the low or moderate income household.

## **What if the My Project has Unique Circumstances?**

There will be some unique circumstance that could not be anticipated in creating the fee schedules. If the Impact Fee Administrator agrees that the land use or meter size is not found on the schedules, the ordinance requires the Administrator to calculate an appropriate fee. If the applicant disagrees with the Administrator's determination, they can hire a qualified professional to do an Independent Fee Calculation Study. The Administrator then reviews the study and must provide written reasons for accepting or denying the study. (Section 27.82.050 (d))

## **What if I Don't Agree with the Determination of the Fees?**

The first step is to submit in writing the reasons there was an error in determining the impact fee for the development. The ordinance provides for an appeal to the City Council. However, the City Council will only be able to rule on errors in determination of the fee. (Section 27.82.110 (j) "Appeals")

## **Can the Mayor Reduce the Impact Fees?**

No.

## **Can the City Council Reduce Impact Fees?**

Yes, but only by a super majority of five or more Council members and only to "promote the economic development of the City or the public health, safety, and general welfare of its residents." Any reduction in fees for economic development must be made in accordance with "goals and objectives adopted by the City Council to promote such development." As of this time the goals and objectives have not yet been developed or adopted by the City Council. Until the goals and objectives are developed, have public review and hearing and are adopted by the City Council, impact fees can not be reduced for economic development. The City anticipates having the criteria adopted prior to June 2, 2003. (Section 27.82.110 (i) "Discretion to Reduce Impact Fees")

## **Are Impact Fees Being Collected for Stormwater Improvements?**

No. The storm sewer system, including detention ponds, are not being funded through the impact fees. The City has proposed the establishment of a city wide stormwater utility, as a division of Public Works and Utilities Department, to fund stormwater improvements to aid in flood control and prevention.

# Impact Fees - Common Questions

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## **Will the Neighborhood Park/Trail Impact Fee Be Used for Large Community Parks?**

No. The community as a whole will continue to use general revenue, keno funds and other funds to pay for community and regional size parks, swimming pools, recreational centers and for park maintenance.

If you have further questions, please contact:

Stephen Henrichsen, Planning Department, at 441-6374

Michaela Hansen, Public Works and Utilities Department, at 441-7559

Further information on impact fees, including a copy of the ordinance, fee schedules and maps are available on the web at:

[www.ci.lincoln.ne.us/city/pworks/ifs](http://www.ci.lincoln.ne.us/city/pworks/ifs)